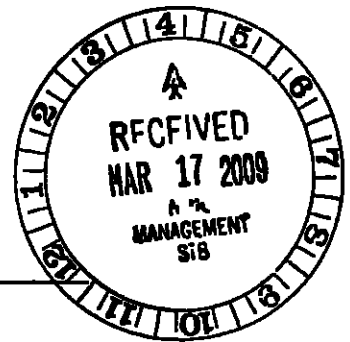


224696

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



FINANCE DOCKET NO. 35164

PETITION OF BNSF FOR DECLARATORY ORDER

**MOTION FOR LEAVE
TO PARTICIPATE AS A PARTY OF RECORD**

**ENTERED
Office of Proceedings**

MAR 17 2009

**Part of
Public Record**

1. Now comes James Riffin ("Riffin" or "Protestant"), who seeks leave to participate as a party of record in the above entitled proceeding, and for reasons states:
2. On February 17, 2009, in the related proceeding *Part 1117 Petition for Injunctive Relief*, STB Finance Docket No. 35206, the BNSF Railway Company ("BNSF") filed a Reply which contained numerous disparaging remarks about Riffin. In order to defend against any further disparaging remarks made by BNSF in this proceeding, Riffin needs to become a party of record.
3. On January 27, 2009, Riffin became a prospective¹ shipper² on the Chickasha Line, between MP 541 95 and MP 542.08, all in Oklahoma City, Oklahoma County, OK, which portion of the Chickasha Line will be adversely affected if BNSF's Petition for Declaratory Order in the above entitled proceeding, receives a favorable decision from the STB. Riffin needs to become a party of record in order to protect his legal right to demand and receive rail common carrier service at his site
4. All documents, filings or decisions in the above entitled case should be served on Riffin at: **James Riffin; 1941 Greenspring Drive; Timonium, MD 21093; (443) 414-6210.**

¹ Prospective because while Riffin has an immediate desire for freight rail service, BNSF has not agreed to provide freight rail service. Riffin intends to use his property for transload purposes (rail to motor carrier and vice versa)

² On January 27, 2009, Riffin acquired a fee simple interest in a parcel of land which is immediately adjacent to, and on the south side of, the right-of-way of that portion of the Chickasha Line that lies between MP 541 95 and MP 542 08, all in Oklahoma County, OK

Respectfully,


James Riffin

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of March, 2009, a copy of the foregoing Motion for Leave to Participate as a Party of Record was mailed via first class postage, postage prepaid, to Kristy Clark, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131-2828, counsel for BNSF Railway Company; Edwin Kessler, 1510 Rosemont Drive, Norman, OK 73072; Fritz Kahn, 8th Floor, 1920 N. Street N.W., Washington, D.C. 20036; Tom McFarland, Ste 1890, 208 S. LaSalle Street, Chicago, IL 60604-1112; and to Charles Wesner, Chair, ONTRAC, P.O. Box 984, Norman, OK 73070


James Riffin

VERIFIED STATEMENT OF JAMES RIFFIN

1. My name is James Riffin. I am over the age of 18 and am qualified and authorized to make this Verified Statement.

2. On January 27, 2009, I purchased a fee simple interest in a parcel of land that is immediately adjacent to, parallel with, and on the south side of, the right-of-way of the Chickasha Line that lies between MP 541.95 and MP 542.08 +/- (Between S Indiana Ave and Westwood Blvd., in Oklahoma City, OK). ("Site").

3 I intend to use the parcel of land for transload purposes, i.e. to transload freight from rail cars to motor carriers, and vice versa.

4. I have an immediate need and desire for freight rail service at my Site.

5 I affirm under the penalties of perjury that the above is true and correct to the best of my knowledge and belief.

Executed on March 16, 2009.



James Riffin